

SEP 28 2007

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<b>TO:</b> <b>ATTN: Office of Petitions</b>	<b>COMPANY:</b> Commissioner for Patents U.S. Patent and Trademark Office	<b>FAX #:</b> 571-273-8300
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<b>DATE:</b> <b>FROM:</b> <b>OPERATOR:</b> <b>CLIENT/MATTER:</b> <b>PAGES:</b>	September 28, 2007 Lawrence H. Meier April Hathaway 06521-00007 5 (including cover)	Reviewed and approved for facsimile transmission by:  J2

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## Comments

RE: SERIAL NO. 09/899,593

BTV.256934.1

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SEP 28 2007

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Darryl V. Landvater

Serial No.: 09/899,593

Filed: July 5, 2001

Title: Method and System For Retail Store  
Supply Chain Sales Forecasting and  
Replenishment Shipment Determination

Group Art Unit: 3623

Examiner: Jarrett, Scott L.

Attorney Docket No.: 06521-00007

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*Lawrence H. Meier* 9/28/07  
Lawrence H. Meier Date

ATTN: Office of Petitions  
Commissioner for Patents

September 28, 2007

## RENEWED PETITION UNDER 37 CFR 1.137(b)

Applicant hereby requests reconsideration of the Decision on Petition mailed  
September 13, 2007 (copy attached).

Applicant intended to file a petition under 37 CFR 1.137(b), rather than 37 CFR  
1.137(f) because the application was abandoned for failure to properly respond to the final  
Office Action mailed August 2, 2006.

Applicant's reply to the final Office Action is contained in the RCE filed on  
February 26, 2007.

Applicant states that the entire delay in filing the required reply from the due date for  
the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was  
unintentional.

Since this application was filed on or after June 8, 1995, no terminal disclaimer is  
required.

Law Offices Of  
Downs Rachlin Martin PLLC  
199 Main Street, P.O. Box 190  
Burlington, VT 05402-0190

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Applicant requests that the \$1,500 petition fee paid with 137(f) petition be applied toward the 137(b) petition.

Respectfully submitted,

DOWNS RACHLIN MARTIN PLLC

By: Lawrence H. Meier  
Lawrence H. Meier  
Attorney of Record  
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2176499.1

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## UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 13 2007

OFFICE OF PETITIONS

In re Application of  
Landvater  
Application No. 09/899,593  
Filed: July 5, 2001  
Attorney Docket No. B06521-00007

ON PETITION

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SEP 17 2007

DOWNS RACHLIN  
& MARTIN PLLC

This is a decision on the petition, filed February 26, 2007, to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704. No additional petition fee is required.

It appears that petitioner intended to file a petition under 37 CFR 1.137(b), not 37 CFR 1.137(f), given the fact that the application is abandoned for failure to properly respond to the final Office action of August 2, 2006.

Petitioner is requested to clarify what type of petition is intended to be filed. Please keep in mind that the statement of delay in a 137(f) petition is not the same as the required statement of delay in a 137(b) petition. If petitioner desires to file a 137(b) petition, petitioner should specify the RCE filed February 26, 2007 as his reply and request that the \$1,500.00 petition fee paid with the 137(f) petition be applied toward the 137(b) petition.

Application No. 09/899,593

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Further correspondence with respect to this matter should be addressed as follows:

**By mail:** Mail Stop PETITION  
Commissioner for Patents  
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**By hand:** Customer Service Window  
Mail Stop Petitions  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

**By Fax:** (571) 273-8300  
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.



Shirene Willis Brantley  
Senior Petitions Attorney  
Office of Petitions